THE

CASE

OF THE

University of *Oxford*;

Shewing, That the City is not concern'd to oppose the Confirmation of their *CHARTERS* by *PARLIAMENT.*

Presented to the Honourable House of Commons on Friday Jan. 24. $16\frac{89}{90}$.

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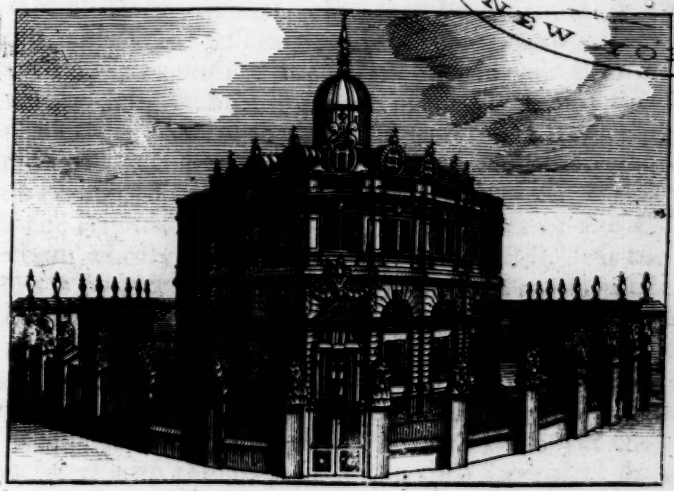

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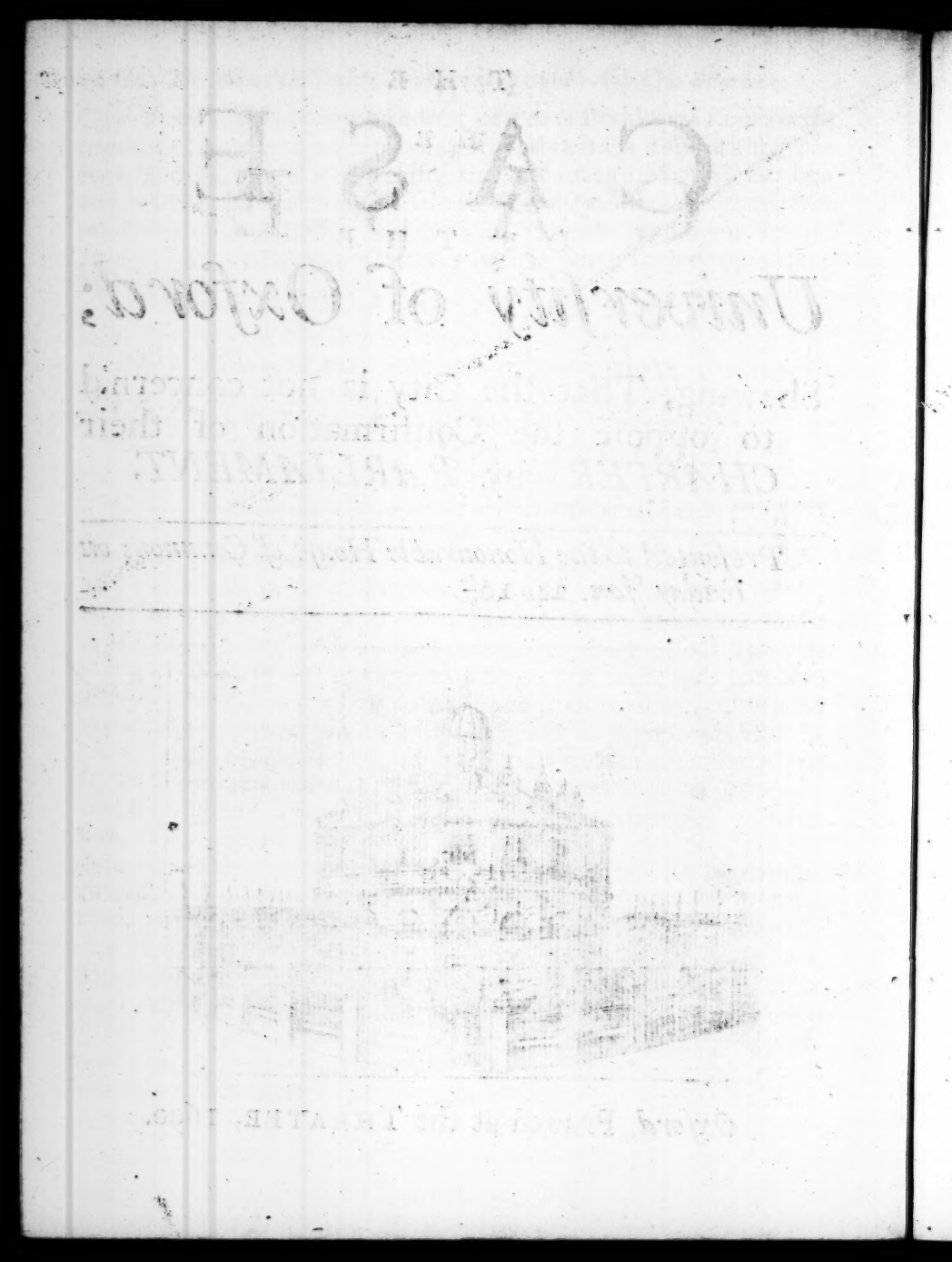

THE

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UNIVERSITY of OXFORD;

Shewing, that the City is not concern'd to oppose the Confirmation of their CHARTERS *by* PARLIAMENT.

THE University desire this Confirmation of their Charters by Act of Parliament, only to secure themselves from a return of those Encroachments in any succeeding Reign, which they experienc'd in the last. For when once the Grants of Kings to the University in general, and to every Colledge in particular, shall be affirmed by Law, it is evident, that there will be no pretence nor color left for any Arbitrary Power to violate our Priviledges for the future. As the University design'd nothing more by this Bill, but this Security to themselves; so were they careful to remove from the City all grounds of Jealousie on this occasion: And therefore they of their own accord charg'd this Act with a Proviso, which fully secures the Rights, Liberties, and Immunities of the City; and puts them wholly out of the reach of this Bill. As the confirmation is by Act of Parliament, so is the Proviso made by the same Authority; and therefore no greater power can secure our rights, than that, which, as Effectually, restrains our Encroachments. The Town of *Cambridge* are so sensible of their own Security in this Clause, that though they have equal Reason to oppose this Bill, as the City of *Oxford*; yet they wholly rest satisfied with the Proviso. But the Citizens of *Oxford* have taken this opportunity to present a List of their old pretended

Grievances,

Grievances, most of which were offer'd to the Parliament, as then call'd, in 1649, and rejected even by that Assembly. It is conceiv'd, that the City of *Oxford* will by force of the Proviso have the same liberty to dispute the Justice of our Rights after this Act, as before it; and that therefore they are in no wise concern'd to oppose the Bill, but may, without danger to them, be referr'd to the ordinary course of Law. However, since they have represented as new Grants, the ancient and unquestionable Rights of the University, founded on immemorial Customs, ancient Charters of Kings, and confirm'd all, except one, by Act of Parliament; it hath been thought fit to discover that Fallacy, and to give a full Answer to every one of their Articles.

I. *BY a Charter bearing date the* 30. *day of* March 11. Car. 1. *the sole Licensing of Taverns is Granted to the University, and all Magistrates and others within or without the University (except the Chancellor, and his Vice-Chancellor) are prohibited to intermeddle with the Licensing of Vintners, in* Oxford; *and none are to License any Ale-houses there, but by the Expreſs consent of the Chancellor, or Vice-Chancellor; and by colour of this Grant they do License Ale-house-keepers, and take Recognizances; but did never Return any of them to the Quarter Sessions until about ten years last past, and have since Returned the same but seldom. Whereas by the Statute made* 7. Edw. 6th. *the Power of granting Wine-Licenses in* Oxford *is Vested in the City; and also by the Ancient Charters of the said City, none that is not of the Guild of the said City ought to sell any Wine by Retail in the same; and the Magistrates of the said City, by several Acts of Parliament, have Power, as Their Majesties Justices of the Peace, to License Inns and Ale-houses within the said City.*

Answer I. The University claims the sole Licensing of Taverns, but derives that Power much higher than from the Charter of *Car.* 1. The recital and explanation of ancient Priviledges in that Grant, will not reduce them to as low a date, as the Charter it self. And therefore since this Power was originally vested

vested in us at least under *E.* 3, We still justifie our claim to it as given by him; and always sav'd to us in the Statutes of his Successors. The 7. *Ed.* 6. doth not take away this Power, but set limits to it; it restrains the University to three Taverns only, and neither by Letter, or Equity enables the City to License any. The 12. *Car.* 2. saves the Rights of the University, and takes away all pretences of any right from the City. For if that power, which is now lodg'd in the University, should be taken away from us; It is evident, That, according to the legal exposition of that statute, the King only, and not the City could have any advantage by our loss. For since all *independant* Corporations, which had once an indisputable right of granting Licenses, are *restrain'd* by this Law; it is easy even for the City to inferr, That a *Subordinate* Corporation, which could heretofore lay no good claim to that power, must *at least equally* be subject to that *restraint.*

2. The Licensing of Ale-Houses is a Right of as ancient a date as the former; but not always perhaps in so express words sav'd to us. This Power, as a branch of the Clerk-ship of the Market, was indisputably ours: and in all Compositions with the Town, was heretofore so esteem'd and allow'd; nor is it, as we conceive, lessen'd by 5. and 6. *Ed.* 6. For the intent and design of that Act is to permit none to keep an Ale-house, but those that are Licens'd by two Justices; but not to authorize all to keep one, who can obtain that License. The Vice-Chancellor therefore doth still retain his Negative Voice; nor is it reasonable, since the inconvenience of Ill Houses in *Oxford* would be so great, that any should be permitted there without his Consent and Approbation. But Lastly, it is to be noted, That though in the precedent Statute, the Rights of the University be not expressly sav'd: yet that this Law is no otherwise enforc'd and continued by 1 *Jac.* c. 9. than that the ancient Priviledges of the University should not be lessen'd by it.

II. *By*

II. *By the said Charter it is Granted, that the Chancellor, Vice-Chancellor, or Proctors, shall have Power to search by Day or by Night for suspicious Persons, and for such as can give no Account of themselves, and to punish such as are faulty by Imprisonment, Banishment, or otherwise, with a mandate to the Maior and Officers of the Town to be Assistant to the search after such Offenders; and by colour of this Charter, and a pretended Custom, they claim a Power to impose Forty shillings upon any Person (whether Citizen or Stranger) being out of his House or Lodging after Nine of the Clock; which they have Exercised not only upon Private Citizens, but upon the Magistrates of the City in the Execution of their Offices, and have Imprisoned the Constables for keeping Watch and Ward according to the Statute of* Winchester; *which is a great Invasion upon the Liberty of the Subject, and hath been often so declared in* Westminster-Hall; *wherefore it is humbly hoped this Parliament will not Affirm the same by a Law.*

Answ. II. The Power of the *Night-watch* is vested in both Universities by immemorial Custom, confirm'd to the University of *Oxford* by the Charters of *Hen.* 3. and *Ed.* 3. ratified by Act of Parliament under Qu. *El.* and only more largely explain'd by the Charter of *Car.* 1. This Power being totally vested in the Vice-Chancellor, and Proctors: those Persons who have set up a Watch, upon pretence of their Office, with a design'd Affront to the University, have formerly been amerc'd by the Vice-Chan. and that Sentence against them was, upon an *Habeas Corpus* brought, in *Painter*'s Case, affirm'd in the *Kings-Bench.* But yet if those Turbulent Persons had not other designs, than to aid the University in their Watch; their assistance is so far from being forbidden by that Charter, that it is expresly requir'd. The Statute of *Winchester* indeed enjoins a Watch to be kept; but takes not away the Universities Power of keeping it: So that the performance of this Duty by the University, can be no breach of that Statute; but the neglect of it might be so.

2. The right of this Power being thus clear'd, much might be

be added concerning the absolute necessity of the continuance of it; especially since the exercise of it hath always been such, that nothing can be reasonably objected against the good Management of that Office. We have no power to punish men for being out of their Houses after Nine, if they have any reasonable Cause, for being so; and we appeal to the Citizens themselves, whether we have ever been severe in admitting their Reasons or Excuses.

III. *By the said Charter the Clerkship of the Market is Granted to the University, with free Power to Dispose of the Stalls and Standing-Places in the Markets, to have the full Government of the Markets, and to take Toll in the Markets; Whereas the University hath only a Title to the Clerkship of the Market, (and that did Anciently belong to the City;) but the Markets, and the placeing of them, and all Stallage, Piccage, and Toll, and all other Profits therein, by ancient Usage and Prescription, do yet belong unto the City; and for the Profits thereof, the City doth pay a large Fee-Farm to Their Majesties. So that in case the said Charter shall be confirmed by Parliament, the said City will lose the said Markets and Profits arising thereby, which is a very considerable part of that Revenue, whereby the Corporation is maintained and supported.*

Answ. III. The University, by the Charters of *Hen.* 3. and *Ed.* 3. had the full Government of the Market, and all other Incidents to that Office. The City indeed did pretend to take Toll; but upon complaints against it in Parliament 14 *Ed.* 2. and 28 *Hen.* 6. were obliged to desist. And in the year 1429, they did in Convocation openly disown both Toll, and Stallage, and a publick Instrument was thereupon made. The Town do not pay any Fee-Farm-Rent to the King for these Profits; but on the contrary, the University were obliged in 29. *Ed.* 3. to pay five pounds to the King for the Clerkship of the Market, and these Perquisites thereof.

IV. *Power is given to the University, by the said Charter, to hold a Court-Leet, or view of Frank Pledge as well over the Town, and all the Inhabitants, as over the University; that it shall be a full and compleat Leet, and that the University shall have the Perquisites thereof, and Power to Distrain for the same. Whereas the City hath Five Leets, one Absolute and Compleat for North-gate Hundred, and four other for the Four Wards within the City, and therein have all the Power of Leets; Except, 1st. the Enquiry into the Assize and Assay of Bread, Beer, and Wine. 2d. The Examination of Weights and Measures. 3d. The Punishment of Fore stallers, and Regraters. 4th. The Punishment of Putrid Victuals. 5th. The Punishment of those who wear Arms in the University; And, 6th. the Survey of the High-ways, and Streets; which being Anciently likewise in the City, were* 29. Ed. *the 3d. surrendered into the King's Hands, and by Him Granted to the University; and for these Six Points the University have ever since* 29. Ed. *3d. held a qualified Leet over the City and Suburbs, for so much, and for so many Things and Inquiries as were given to the University* 29. Ed. *3d. And this Leet is to be served by a mixt Jury, one half Priviledged Men, and the other half Free; and the Penalties imposed by the said University in this Leet are to be Estreated, and sent to the City, and to be Levied by them to their own use towards their Fee-Farm.*

Answ. IV. The University doth not only claim a qualified Leet, by the Grant of *Ed.*3. but *prescribes* to an absolute and complete Leet; which was ratified to them by the Charter, 14. *H.*8. and confirmed by Act of Parliament, 13. *Eliz.* The Town cannot prove, that the Profits of our Leets were ever granted to them; and if they could, yet the University was first intitled to them by far more ancient Charters; and consequently could not be *deprived* of that Right by any subsequent Grant.

V. *By the said Charter it is Granted, that the University shall have Power to make Orders and Laws to bind all the Inhabitants in the said City. Whereas the City and University are two distinct Corporations, and the one in no sort Subordinate to the other; and therefore it is not reasonable that the Citizens should be bound by Laws, which they never consented to by themselves or their Representatives.*

Answ.

Answ. V. This Charter doth no otherwise subject the City to the University, than former Grants and Acts of Parliaments had subjected it. They were always before a Corporation subordinate to us; and in Law, as well as Interest dependant on us. They are accountable to us in our Courts, they do every year take an Oath of Fealty to us, and these, if any, are sufficient Tokens of Subjection.

2. Since therefore our Corporation is superior to them, it is no wonder, that our By-Laws should oblige them. And this Power was not, as they would pretend, granted to us by *Car.* 1. but is an ancient and unquestionable Right, already confirmed by Act of Parliament.

VI. *By the said Charter a Grant is made to the University of two Coroners. Whereas, time out of mind, the City hath had two Coroners, who have sate upon all Persons, as well Priviledged as Free, until the making the said Charter; and therefore the City having an Interest in the Coroners before the said Grant, the Grant to the University is void, and Inquisitions taken under their Grants* Coram non Judice.

Answ. VI. The University had long before, by Charters of *Hen.* 4. and *Hen.* 8. power to hear and try all Felonies and Murders, committed either by their own Members, or against them; and therefore it seemed necessary, in pursuance of former Rights, that for the better Inquiry into those Offences, that were afterwards to be finally tryed by them, the Coroner should be appointed by their Authority. This, and this only is the new Grant of *Charles* the First, and is such a Priviledge, as may indisputably be granted by him; and which cannot be thought to encroach on the Right of the City, who still have power to appoint a Coroner for themselves; and were forbidden by former Charters to assign one for us. The Coroner's Power indeed was before lodged in the Chancellor and Steward; and *Charles* 1. did not so properly create a new Office, as divide the different Powers of a former Officer.

VII. *By the said Chabter Towns-men are to be Answerable for their Families in Buying and Selling all Wares, where either Party is a Scholar; and also for all such Persons as they shall harbour in their Houses above three Nights; and no Towns-man is to build any Cottages without the Expreß leave of the Chancellor, or Vice-Chancellor, which are Restraints inconsistent with the Liberty of a Free-man of* England.

Answ. VII. These pretended new Hardships are reasonable and ancient Customs agreeable to our ancient Charters. If the Servant sells false Goods, the Master is obliged to Restitution; if a Man will harbor a Stranger above three days, he shall be responsible for him. And there is the same reason, if a Man do erect a Cottage for the Reception of such persons as if he harboured them himself. Now it is not easy to imagine, that these Customs which were the known Laws of the Land, even before the Entrance of the *Normans*, should be now inconsistent with the Liberty of the People of *England*, and apparent Badges of Slavery.

VIII. *The University hath likewise by the said Charter a Grant of Felons Goods, and Power to search and seize such Goods; whereas the City doth claim the same by Charters more ancient than any the University pretended to claim by; and the University themselves, under their Common-Seal, have granted, that Felons Goods do belong unto the City, towards their Fee-Farm: And the City having the Charge and Custody of keeping the Gaol, and being liable to Escapes, and being at the expence of holding Sessions of the Peace, and Gaol-delivery four times in the Year, and the Execution of Prisoners; it may seem unreasonable that the University should have the Profit of those things, which usually belong to other Cities in the same circumstances.*

Answ. VIII. Felons Goods do by no ancient Charter belong to the City of *Oxford*; nor can they produce any such Charter antecedent to ours. They were always, as appears by a multitude of Records, heretofore claimed by the King, and were by the Sheriffs seised to his use. The University were not first intitled

intitled to them by the Charter of *Charles* 1. having enjoyed them long before the Date of that Grant, but by the Charter of *Hen.* 8. confirmed by the Statute of 13 *Eliz.* We did not therefore indeed lay any claim to them in the Composition under *Hen.* 6. because there was no reason, that we should challenge that, which we *then* had no right to. But the Intereſt of them being then vested in the King, was, as it lawfully might, by Charters of several succeeding Princes, transferred to the University.

2. It is not unusual in other Cases, that Felons Goods should be granted away from those that maintain the Prisoners. Nor ought the City, especially, to complain of their Expences in this kind, whose Prisoners chiefly subsist on the Alms of the University. However this is matter of Right, We insist on authentic Records, and Charters; and it is a great sign, that on their side the Records are deficient, when they have this Recourse to Argument.

IX. *The University doth pretend to have a Power to discommon Citizens at their pleasure, and to inhibit all privileg'd Persons to have any Commerce or Trading with them, which they sometimes use, to the ruin of the Citizens and their Families.*

Answ. IX. It is here own'd, that the Citizens do wholly subsist by their trade with the University; and that the *ruine* of them and *their Families*, is the necessary consequence of the loss of it. This Consideration hath had so good an effect on the University, that it hath always inclin'd them to pity and moderation in the Exercise of *this power*; And it might be justly expected, that it should likewise have such influences on the Citizens; as might hinder them from opposing the just rights of that Body; on which they always heretofore were, and now confessedly are dependant. But if some of them shall still molest the University, and disturb our peace, and good government; We cannot possibly take a juster and milder method of procuring our own quiet; than by cutting off all Correspondence with our factious adversaries: This right of *Discommuning* then

then is a *reasonable*; and, (as by many precedents can be prov'd) an *ancient* Right of the University, and exercised long before that Charter upon urgent occasions; but withall so rarely practised, that those who now complain of it, will hardly be able to remember one single instance of it. Nor ought the Towns-Men to complain of this, who have usually made it the Condition of their Leases: that they shall not let their Houses to a Scholar as an Under-Tenant, and shall never grind at any other than their Mill.

X. *By the said Charter it is granted, that Scholars, their Servants, and the Servants of the University, shall not be forced to appear at Musters, or contribute thereunto; and that they shall be discharged of Subsides, Reliefs, Impositions, and Contributions.*

Answ. X. We owe not this Grant originally to *Charles* the First, but derive it from Custom, own'd and settled in Parliament, 18. *Ed.* 1. and ever since allowed, upon solemn Hearings, under Queen *Elizabeth* and King *James*. This is such a reasonable Priviledge, that all Forreign Universities enjoy it. Nor is there any ground left for the City's Complaint, since it is always provided, that those Priviledged persons, who exercise Merchandize in the City, and share in the Profit, should be equally chargeable with the City for such Merchandize.

XI. *The University, by means of a Composition made shortly after the Conflict* 29° Edw. 3. *and confirmed by the said Charter, do require the Maior and* 62 *Citizens with him, yearly upon* Scholasticus-*Day (which is the* 10*th. day of* February*) to make an Oblation there upon the high Altar, of* 63 *Pence for the Souls of* 63 *Scholars slain in the time of King* Edward 3. *This being in the Original gross Superstition, is too great a Badg of Popery to be required in a Protestant University.*

Answ. XI. The barbarous Murder of sixty three innocent Scholars, which they here own, and term a Conflict, and the Plunder of the whole University drew a great and just Amercement on the Criminals. The City pretended they were not able to

pay

pay this Fine without their utter Ruine; and did humbly pray, and at last obtained from the University a Mitigation of it.

An annual payment of an hundred Marks was then accepted; and this, by the further favor of the University, was changed into a small yearly Acknowledgment. This Ceremony, according to the Custom of that Age, was not wholly free from Superstition; and was therefore by consent of both parties, under Queen *Elizabeth*, changed into a Sermon, a Communion and Offering. The Custom did not take its rise from any gross Superstition, unless it be so to make satisfaction for *Murder* and *Robbery*; and if the continuance of it still displeases them, they may put an end to it themselves, by discharging their Bonds.

XII. *By the said Charter it is granted, that Scholars, or Priviledg'd Persons shall not be impleaded in the Courts of* Westminster, *for such things as the Chancellor hath cognizance of; and that they shall be dismissed from thence without pleading their Priviledg, or paying their Fees, which doth often fall out to be a very great Oppression to the Officers and Ministers of Justice; for if upon demand of the Vice-Chancellor they do not discharge such Priviledg'd Persons, the Vice-Chantellor, by colour of this Clause, doth imprison the Bayliff; as on the 20th. of* October *last he did on* Edward Adams, *a sworn Bayliff, for not discharging* Henry Wildgoose, *who was arrested at the Suit of the City, by a Writ issuing out of the Court of Common-Pleas; and by colour of the said Clause, if any Person sue a Priviledg'd Man in any of the Courts of* Westminster, *the said Vice-Chancellor doth cite the Plaintiff into the Court of the University for breach of their Statutes, and doth condemn him in Expences for suing a Privilegd d Person out of the University.*

Answ. XII. It seems absolutely necessary, as well for the *quiet*, and *security* of the Scholars, as for the better maintaining of *discipline* among them, that their own Governors only should have an *immediate jurisdiction* over them. And therefore there is not any University *abroad*, where the members of it have not a right to be impleaded in their own *Forum* only and to be exempted from any forraign power. This University of *Oxford*, more

more particularly hath so long enjoy'd this *Priviledge*, that it is not possible to assign the date of the *Original grant*. For since we find the autority of our Court frequently own'd and allow'd under *Hen.* 3*d. Ed.* 2*d.* and *Ed.* 3*d*, We have reason to think that this power is as ancient, as the University it self. Our right to it then is so well founded on *reason* and immemorial Custom, that it is no wonder, if we find it anciently in the year books not only acknowledged by the Town, but always willingly own'd by the *Judges*, even before it was, as it is now, confirm'd by Act of Parliament. The Lord *Coke*, especially who is not usually a Friend to any other Courts, but those at *Westminster*, doth yet, according to the example of his Predecessors, make an Honourable mention of this Court; and gives that Statute the name of *Actus Benedictus*, that confirm'd it. The Procedures of it have always been within the bounds of their ancient Jurisdiction; and of this we need have no clearer evidence, than that the only Act of injustice here alleg'd, is that we discharge our own members; and arrest those, who deny our Autority and violate our right. The Citizens were certainly ill inform'd, when for a signal instance of our Exorbitances, they charge us only with the due exercise of that power; which, upon solemn hearings hath *twice at least*, been acknowledg'd at *Westminster*.

XIII. *By the said Charter it is Granted, that Priviledged Men shall have as much Liberty to Trade as the Freemen of the said City, and by color of this Grant, the said University do take upon them to set up Trades, and to License certain Persons whom they call Priviledg'd Persons, openly to use Trades, and to sell Merchandizes within the said City, and Suburbs by Retail, which is contrary to the ancient Charters, Customs, and Priviledges of the said City, and to certain Compositions and Agreements made between the said University and City.*

Answ. XIII. Priviledg'd Persons have so ancient a right to the Exercise of any Trade; that, their prescription to it commences before the oldest Charter to the City, and is sav'd by it. This right is allow'd in Parliament 18 *Ed.* 1. declar'd by expres words

words 14 *Hen.* 8. ratify'd by Statute under Qu. *Elizabeth*, and only more largely explain'd by *Car.* 1. Limits have since been put to this Priviledge; which the University have never transgress'd; nor have ever, as the Town uses to do, Pleaded their Ancient Rights in bar of the subsequent restrictions of it.

XIV. *Whereas by certain Compositions heretofore made between the said University and City, the Menial Servants of all Scholars, and all their other Servants taking Wages without Fraud or Deceit, are to enjoy the Priviledge of the University; the said University, upon pretence of latter Grants, have fraudulently, and with an intent to weaken the Government of the said City, granted colourable Priviledges to divers Members of the City; and upon pretence that they were become the under Groom, Gardiner, or Officer of some Colledge, have matriculated them, and whilst they have continued Members of the City, have administred unto them an Oath to the effect following*, viz. You shall swear, that you shall not attempt any Cause of yours before the Maior or Bayliffs of *Oxford*, neither shall you answer before any of them as your Judg, so long as you shall continue a Priviledg'd Person. So God, *&c. which in terms is repugnant to the Oath which every Freeman of the City doth take at the time of his admission into the Liberties of the said City; and particularly they have within the space of three Months last past, matriculated one* William Turton, *upon pretence that the said* William Turton *was Gardiner of* Exeter *Colledge: Whereas the said* William Turton *was, and yet is a Freeman of the said City, and doth continue to use the Trade of a Vintner, and obtained the Title of the said Office, only to avoid the bearing such Offices in the said City, as his Condition and Substance had made him capable of. Also one* Henry Wildgoose *a Freeman, and one of the Common-Council of the said City, being apprehensive that he should be chosen into the Office of Chamberlain of the said City, to avoid the same about two days before the Election for the said Office, did procure himself to be matriculated, upon pretence that he was a Groom to one* Dr. Irish, *although the said* Henry Wildgoose *did, and yet doth continue the*

Trade of a Painter, within the said City, and hath no further relation to the said Dr. Irish, *than to protect himself against the said City; and by colour of the said Matriculation, the said* Henry Wildgoose *being elected Chamberlain of the said City, did, and yet doth refuse to accept the said Office, and is protected in his Disobedience by the University, by which means other Citizens are encouraged to withdraw themselves from their Majesties Service in the said City.*

Answ. XIV. We have hitherto made good our Claim to these Rights and Priviledges; it remains that we clear our selves from the Charge of abusing them: We have given no colourable Priviledges to any Member of the City; but neither have nor could deny their just Rights to those that demand them. *Wildgoose*, as a Limner, was entitled to his Priviledge; the Right to it was vested in him by his Trade; Matriculation is only declaratory of that Right. Whoever will plead his Priviledge, must register his Name; and Men may lawfully forbear entry, till they have need of the Plea. His being Servant to Dr. *Irish* is a new Right to his Priviledge; but his former Title was not destroyed by the new one that is superinduced. The City surmise that he entred into this service, to decline an Office there; but he hath sworn, that they, in his Opinion, put the Office upon him, because he entered into this Service: So that here we have *his* Oath against *their* Suspicion; and which ever of the Assertions be true, certain it is, that the University cannot justly be blam'd for allowing him that Priviledge, which, according to their own Charters, and their Agreements with the Town, they could not lawfully deny him. *Wildgoose* being excluded by these Regulators, was not willing to return into the Company of those that excluded him; and therefore did now embrace the opportunity of demanding that Priviledge, which was long since due to him. However, that we may judge of the truth of these assertions, it is equally false that he is Groom to Dr. *Irish*; as that *Turton* is matriculated Gardiner to *Exeter Colledge*. *Turton* is a Vintner Priviledg'd by the University; and is entred as such; that he exercises

exercises a Trade still is the consequent of his *Licence*, that he bears no Office, is the result of his Priviledge; and these are such rights, as the University can justly give, and he, as a Priviledg'd Man, ought to enjoy. The Oath of Freemen is founded on their obligation to the City; and the force of it ceases, when their dependance determines: The University is above those mean designs, which this Pamphlet charges on them; They force no Man to be Priviledg'd, nor accept the price of their Priviledge; and, if the Citizens are so pleas'd, it would be an easie composition, that no Free-man should ever enjoy it.

2*dly*. We have no reason to think, That *Wildgoose* was guilty of a *Fraud*; because *we* have as yet receiv'd no proof against him. *However* if his guilt was admitted, it is very hard to imagine, how his crime can possibly affect *us*, and be made any part of the Charge against the *University*. If *he* had any unjustifiable design in procuring his Matriculation; is it probable, that he would acquaint the *Vice-Chan.* with it; or that the *Vice-Chan.* should know it without such notice? A private discourse is said to have pass'd between Mr. *Recorder* and *Wildgoose*, concerning a small Office in the Town; and shall the University be thought *parties* to the *Fraud* for not *hearing* it? If a man, upon the like designs, is entred a Clerk in the Common-Pleas; shall the *future* discovery of his *Fraudulent intentions* cast any reflexion on the honesty of the *Prothonotary*, or the integrity of the *Judges*? The Matriculation then of this Person cannot possibly be any crime in the University; and therefore the whole offence must be resolv'd into *our protection of him in his disobedience*. While his name remains in our Register, he is one of our members; and, as such, hath right to our *protection*; But if the *Fraud* shall be prov'd *to us* we are ready to alter the roll; and *by consequence* to deprive him of his Priviledge. We do not therefore justify any *Fraud*, because we know of none; and it is the duty, and interest of the City to take care, that we should be acquainted with it. This *Priviledge* was so far

from being granted, *pendente lite;* that even, before any *cause* of *action*, it was obtain'd; and therefore any *Fraudulent design* cannot in this Case be pretended to appear by a *notoriety* of the *Fact;* but is to be made out by those means only, which are not yet *offer'd* to us, the *Evidence* of the *Parties concern'd.* Till therefore *Wildgoose*'s offence be prov'd to the *Vice-Chancellor*, He cannot in justice alter the Register; and, as long as his name shall continue *there*, we cannot but think, with submission to *this house*, that he hath a just title to *all* the *Priviledges* of a *Matriculated Person.* For if one of *your* Honourable house shall by *Bribery* obtain an *Election*, and, after that, a *return*; and, before any Examination of his Case in the house, be *sued* in Westminster-Hall; the Judges undoubtedly *shall not* have *cognizance* of his *Crime*, nor can suffer his *Bribery* to be insisted on, as a barr to his *Priviledge.* Till the *return* be *amended* he is *actually* a *member* of your house; and consequently hath yet a right to those Priviledges which you *deservedly* enjoy. When the *Bribery* shall appear to your Committee, *They* certainly *will*, and they *only can* deprive him of any *place* in Parliament, and so *necessarily* devest him of the *Priviledge*, that *attends* it. This house is undoubtedly sensible, that this Case is exactly parallel to ours; we are so far from being Patrons of Fraud, that we desire an opportunity of punishing it; we require nothing of the City, but to add *proof* to their *surmizes*; and then to receive *justice*, as they *ought*, from *our hands.*

We have been longer in the answer to this Objection, because the Citizens have every where laid the greatest weight on it; and because it seems requisite fully to convince this house; that we are not more *careful* in *maintaining* our *just rights* than we are *cautious* in *not abusing* our *power.*

Thus have we sufficiently prov'd, that those controverted Rights were not originally grounded on a late Charter, but on ancient Customs, and Grants, most of them being expresly, and all

all heretofore implicitly confirm'd by Parliament. And now it is time to enquire what credit is to be given to those who have charged Novelty on those Grants, which are as ancient as our Constitution, and are the Inheritances of our Fore-Fathers. They are such Priviledges, as our University never did, because they could not want; the absolute necessity of them was the occasion of their ancient Usage: and since *That* hath given us a Title to them, we may reasonably hope, that this Honourable House will now preserve them to us, as well in favor to Learning, as in respect to Justice.

Thus have we fully recited and answer'd all the Articles of the City; and now we think it less nauseous to answer, than to repeat their Rhetorick; which hath no other Character of Truth, than that of Plainess and Simplicity: We cannot own, that Card. *Woolsey* and Arch-Bishop *Laud* procur'd Charters absolutely new for us; but in this we are oblig'd to them, that they took care to have our Ancient Charters explain'd: For, since we are to deal with unquiet Men, an Explanation of a former Grant, is an equal favor to a new one. If the University had Priviledges, and declin'd the use of them, it is such an instance of their Moderation, as we wish and may wish to see copied by the City. We have no design on the City; The Present Act can give us no advantage over them, and if we had purpos'd, that it should have done so; we would hardly have added the Proviso. For whatever may seem to those Gentlemen, the Force of the Clause is so evident, to all Men of Sense and Law; that, in reference to the City, it wholly disables and destroys the Bill.

We are not concern'd to accuse the Citizens, but since some of them have been ready in surrendring their Charters, and have since been forward Regulators; we hope that they will take some more agreeable Standard to measure their Deserts by, than the Merits of the University. And now lastly, if these Priviledges have been anciently ours, transmitted to us from our Pre-

Predeceſſors, affirm'd by former Kings, ratified by Statutes, and generouſly defended by us in the moſt dangerous times: We have reaſon to hope, that our undoubted Rights will by this Honorable Houſe be preſerv'd to us, both againſt the Encroachment of an Arbitrary Power, and of an Unreaſonable City.

FINIS.